

Message Text

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PAGE 01 GENEVA 00902 131704Z

51

ACTION SS-30

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FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 3966

INFO AMEMBASSY MEXICO

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C O N F I D E N T I A L GENEVA 902

EXDIS

FOR: L/MAW AND ARA/KUBISCH FROM FELDMAN

E.O. 11652: GDS

TAGS: UNCTAD, EGEN

SUBJECT: UNCTAD: CHARTER OF ECONOMIC RIGHTS AND DUTIES
OF STATES-PERMANENT SOVEREIGNTY

1. THIS MORN AMB CASTENEDA HANDED ME DRAFT
OF MEXICAN TEXT ON PERMANENT SOVEREIGNTY SET FORTH PARA 2
BELOW. HE INDICATED THESE WERE PRIVATE MEXICAN THOUGHTS
BASED ON OUR BILATERAL CONVERSATIONS WHICH HE HOPED WOULD
PROVIDE A BASIS FOR COMPROMISE ON THIS ISSUE. I THANKED
THE AMBASSADOR AND TOLD HIM I WOULD PASS THE TEXT
IMMEDIATELY TO WASHINGTON FOR COMMENT. HOWEVER, I EX-
PRESSED DOUBTS WHETHER THIS TEXT COULD BE ACCEPTABLE TO
WASHINGTON AS IT DELETES REFERENCES TO INTERNATIONAL
LAW CONTAINED UNGA RES 1803 WHICH ARE CENTRAL TO US
CONCERNS AND INTERESTS. I ALSO NOTED POSITIVE
ELEMENTS OF MEXICAN TEXT REGARDING INVESTMENT AGREE-
MENTS AND EXHAUSTION OF REMEDIES. WHEN CASTANEDA
INDICATED HE PLANNED TO WHO THIS TEXT TO THE ARGEN-
TINES, I ASKED AND OBTAINED HIS ASSURANCE THAT HE WOULD
NOT REPRESENT THIS TEXT AS FLOWING FROM THE US DISCUSSIONS
WITH THE MEXICANS. (IN ARGUING FOR 1803 I NOTED THE
CHILE AGREEMENT WITH THE PARIS CLUB OF APRIL 1972
IN WHICH EVEN THE ALLENDE GOVERNMENT WAS ABLE TO ACCEPT
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PAGE 02 GENEVA 00902 131704Z

1803. SO FAR, THIS ARGUMENT HAS MADE NO APPARENT IMPACT

ON CASTANEDA.)

2. MEXICAN TEXT FOLLOWS:

QUOTE

PARAGRAPHS 2 AND 10

1. EVERY STATE EXERCISES PERMANENT SOVEREIGNTY OVER ITS WEALTH AND NATURAL RESOURCES AND ACCORDINGLY HAS THE RIGHT TO FREELY AND FULLY DISPOSE OF THEM IN THE INTEREST OF THE DEVELOPMENT AND WELFARE OF ITS PEOPLE.

2. EVERY STATE HAS THE RIGHT TO REGULATE AND CONTROL FOREIGN INVESTMENT IN ACCORDANCE WITH ITS DEVELOPMENT OBJECTIVES AND PRIORITIES.

3. NO STATE SHALL REQUEST PREFERENTIAL TREATMENT FOR THE FOREIGN INVESTMENTS OF ITS NATIONALS.

4. NATIONALIZATION, EXPROPRIATION OR REQUISITIONING SHALL BE BASED ON GROUNDS OR REASONS OF PUBLIC UTILITY, SECURITY OR THE NATIONAL INTEREST WHICH ARE RECOGNIZED AS OVERRIDING PURELY INDIVIDUAL OR PRIVATE INTERESTS, BOTH DOMESTIC AND FOREIGN. IN SUCH CASES THE OWNER SHALL BE PAID APPROPRIATE COMPENSATION IN ACCORDANCE WITH THE RULES IN FORCE IN THE STATE TAKING SUCH MEASURES IN THE EXERCISE OF ITS SOVEREIGNTY. IN ANY CASE WHERE THE QUESTION OF COMPENSATION GIVES RISE TO A CONTROVERSY, THE NATIONAL JURISDICTION OF THE STATE TAKING SUCH MEASURES SHALL BE EXHAUSTED. HOWEVER, UPON AGREEMENT BY SOVEREIGN STATES AND OTHER PARTIES CONCERNED, SETTLEMENT OF THE DISPUTE SHOULD BE MADE THROUGH ARBITRATION OR INTERNATIONAL ADJUDICATION.

5. FOREIGN INVESTMENT AGREEMENTS FREELY ENTERED INTO BY OR BETWEEN SOVEREIGN STATES SHALL BE OBSERVED IN GOOD FAITH; STATES AND INTERNATIONAL ORGANIZATION SHALL STRICTLY AND CONSCIENTIOUSLY RESPECT THE SOVEREIGNTY
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PAGE 03 GENEVA 00902 131704Z

OF PEOPLES AND NATIONS OVER THEIR NATURAL WEALTH AND RESOURCES.

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